

Dear Colleagues,

## 2021-1 The Union & Constitution

Thank you to everybody who participated in our consultation on public services. If you have not already seen the public summary of our consultation on [workers and families](#) and the formal response from the [PM's Policy Unit](#), then do take a look at our website. As usual, a more detailed summary was sent to the relevant Party and Government leaders. Representatives from several participating groups were also invited to explore their ideas further with the Secretary of State for Work and Pensions at a roundtable meeting, held in mid-January.

This discussion paper is the penultimate one in our series considering the Government's programme for legislation, as presented in December 2019's Queen's Speech, exploring another of its major sections—namely, the Union and constitution. Once again, both of these are big topics, so groups may like to split the consultation over two meetings: one for the Union and another for the constitution. As usual, we would strongly encourage you to use this as an opportunity to reach out to supportive voters in your constituency/constituencies, rather than just the usual crowd of members. Some groups have found it beneficial to challenge each member to invite a friend.

Please send your responses to the questions in this paper to [CPF.Papers@conservatives.com](mailto:CPF.Papers@conservatives.com), using the associated response form published alongside the paper on the CPF website. The deadline for submitting your response is 21st March. We aim to publish our next discussion paper, on the justice system, on 10th May, after the scheduled elections. In the event that these are postponed again, then this next paper will be published on 22nd March.

A summary of responses to this consultation paper will be sent to the Prime Minister's Policy Unit, relevant Ministers, Party Chairman and CPF Chairman by late-April. We look forward to hearing your ideas as, together, we "continue to work to strengthen the bonds between the different parts of the UK and to safeguard its constitution and democratic processes."

Kind regards,

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## The Union

*"The United Kingdom is the most successful political and economic union in history. Together, England, Scotland, Wales and Northern Ireland are safer, stronger and more prosperous. For more than 300 years, our people have built this great country together. And we believe our best days lie ahead."* (2019 Conservative & Unionist Party Manifesto, pp.44f)<sup>1</sup>

The current form of devolution in the UK dates back to the late 1990s. Separate legislatures and executives in the four nations have powers to make laws and deliver public services.<sup>2</sup> Recent milestones have included the referendum that decided against Scottish independence in 2014 and the restoration of devolved government in Northern Ireland in January 2020.<sup>3</sup> Central coordination of the overall relationship between the UK and the devolved nations is supposed to be overseen by the Joint Ministerial Committee.<sup>4</sup> However, some have warned that "Brexit has opened up the Union to a new nationalist and separatist agenda" and have called for the UK Government to work "with devolved administrations and local communities on all matters of import to improving people's lives."<sup>5</sup> The UK Government aims to change the perceived culture of "devolve and forget" within Whitehall, for instance by relocating civil servants to and funding projects for councils in the devolved nations.<sup>6</sup>

English local government is divided in some areas into *county councils* (the upper tier) and *district councils* (the lower tier). In other areas, *unitary authorities* carry out all local government functions. Some single-tier councils and district councils are known as *borough* or *city* councils, but these honorific titles do not affect the powers available to the council. As of April 2021, there will be 339 local authorities in England, of which 25 are county councils, 188 are district councils and 126 are single-tier authorities. Of the latter, 33 are London boroughs and 36 are metropolitan boroughs. A further tier of around 10,000 *parish* and *town councils* exists in some parts of England.

Wales has 22 unitary authorities (also known as *county councils* or *county borough councils*), and Scotland has 32 unitary authorities. Both Wales and Scotland also contain *community councils*, roughly equivalent to parish and town councils in England. As of 2014, Northern Ireland had 11 district councils, but does not have an equivalent to parish and town councils.

England has ten *combined authorities*, where two or more neighbouring councils coordinate responsibilities and powers over services. Eight of these are *mayoral combined authorities*, which means that they are led by metro mayors. The Greater London Authority is a distinct devolved body led by a mayor but is treated in practice in an equivalent way to the mayoral combined authorities. In addition, there are 38 directly-elected *Police and Crime Commissioners* (PCCs) in England, including the Mayor of London, plus four in Wales. Devolution deals were also agreed with Cornwall in July 2015 and with West Yorkshire in March 2020.<sup>7</sup>

The Crown Dependencies—namely, the Bailiwick of Jersey, the Bailiwick of Guernsey and the Isle of Man—are not part of the UK but have their own directly-elected legislative assemblies, administrative, fiscal and legal systems and courts of law.<sup>8</sup> The UK also retains constitutional links with 14 Overseas Territories, covering a combined area seven times that of the UK and inhabited by around 300,000 citizens. The UK is required "to promote the political, economic, social and educational advancement of the people of the Territories, to ensure their just treatment and their protection against abuses, and to develop self-government and free political institutions."<sup>9</sup>

## Questions for discussion

1. What are the benefits of the Union: if we say we are better together, what does that mean in practice economically, socially, culturally and diplomatically?
2. Do we need more or fewer metro mayors, including in places like Scotland? How do Police & Crime Commissioners fit in? Are local Government powers too strong or too weak?
3. What can be done to strengthen the Union? How should the Crown Dependencies and Overseas Territories fit into the Union?
4. Is there any other observation you would like to make?

## The Constitution

*"The Fixed-term Parliaments Act caused constitutional chaos [in 2019] which...meant the previous Government couldn't deliver what it was asked to do. Ultimately, at critical moments for our country, we trust the public to decide. So we are going back to the system that lets elections happen when they are needed. We want to return to constitutional arrangements that give people more confidence in what to expect, and more security."* (Minister for the Constitution & Devolution, Chloe Smith MP)<sup>10</sup>

*"After Brexit we also need to look at the broader aspects of our constitution: the relationship between the Government, Parliament and the courts; the functioning of the Royal Prerogative; the role of the House of Lords; and access to justice for ordinary people... We will set up a Constitution, Democracy & Rights Commission that will examine these issues in depth, and come up with proposals to restore trust in our institutions and in how our democracy operates."* (2019 Conservative & Unionist Party Manifesto, p.48)

Recent events showed how the 2011 Fixed-Term Parliaments Act led to paralysis at a time when the country needed decisive action. The over-riding constitutional principle should be that the government of the day has the confidence of the Commons. Fixing the length of a Parliament at precisely five years undermined this democratic necessity and hindered the function of representative democracy by making it harder to have necessary elections.<sup>11</sup>

- The Fixed-term Parliaments Act (Repeal) Bill, introduced in December, means that Parliament will in future be dissolved by the Sovereign, on the advice of the Prime Minister, as it was prior to the formation of the coalition government in 2010.<sup>12</sup>
- The Parliamentary Constituencies Act, passed in December, will make UK constituencies more equal in size and proposals from future boundary reviews will be implemented automatically.<sup>13</sup>
- The introduction of voter ID at polling stations will protect our elections from potential fraud.<sup>14</sup>

The Supreme Court is the highest court in the United Kingdom. A legally separate body from the England and Wales courts, it was created in October 2009 to ensure the independence of the judiciary from Parliament. Critics argue that it "has begun to play a role more properly reserved for a constitutional court" although, in truth, for many years "the scope of judicial review has been sharply extended so that many questions that would formerly have been for ministers to decide...are now open to challenge by way of litigation."<sup>15</sup>

To begin delivering the commission on constitution, democracy and rights, the Government last year set up an Independent Review of Administrative Law and another of the Human Rights Act.<sup>16</sup> The former is considering whether the right balance is being struck between the rights of citizens to challenge executive decisions and the need for effective and efficient government.<sup>17</sup>

The latter is particularly looking at two themes: the relationship between our domestic courts and the European Court of Human Rights in Strasbourg, and the impact of the Human Rights Act 1998 on the relationship between the judiciary, the Executive and the legislature. It will consider whether the Human Rights Act strikes the correct balance between the roles of the courts, the Government and Parliament; and whether the current approach risks domestic courts being unduly drawn into questions of policy. The public call for evidence closes on 3 March 2021 and the review is then due to report back in the summer.<sup>18</sup>

### Questions for discussion [Groups may also wish to respond to the public call for evidence.<sup>18</sup>]

5. In what ways might the scope of judicial review or the Supreme Court benefit from change?
6. What are the strengths and weaknesses of how the roles of the courts, Government and Parliament are currently balanced in the operation the Human Rights Act?
7. What would you recommend for continued reform of the House of Lords?
8. Is there any other observation you would like to make?

## The Queen's Speech

The Queen's Speech<sup>19</sup> set out a variety of measures to strengthen the bonds between the different parts of the UK and to safeguard its constitution and democratic processes:

- We will continue to uphold the constitutional integrity of the UK, working constructively with the devolved administrations and their legislatures to ensure our Union continues to flourish.
- We will urgently pursue the **restoration of the devolved power-sharing government at Stormont** to ensure the people of Northern Ireland have the political leadership of their elected local representatives.
- We will set up a **Constitution, Democracy and Rights Commission** to consider the relationship between Government, Parliament and the courts and to explore whether the checks and balances in our constitution are working for everyone.
- We will take forward work to **repeal the Fixed-term Parliaments Act**.
- We will protect the integrity of our democracy and elections, tackling electoral fraud through the **introduction of voter ID** and **banning postal vote harvesting**.

## Recent Government Action

- **Providing £2 billion to support the new Northern Ireland Executive bring about much needed reforms to public services and upgrades to crucial infrastructure.** The financial support will end the nurses' pay dispute, transform public services and turbocharge infrastructure investment. It will be accompanied by stringent conditions to deliver a greater level of accountability and sustainability.<sup>20</sup>
- **Implementing a Brexit deal which ensures the integrity of our Union and prevents a hard border on the island of Ireland.** The deal ensures that Northern Ireland will remain in the UK customs territory and can benefit from the UK's future free trade deals. We will guarantee and reinforce the peace process and avoid any issues at the border by ensuring that Northern Ireland will have no hard border with the Republic or Great Britain.<sup>21</sup>
- **Investing in Northern Ireland's prosperous future with Growth Deals across Northern Ireland.** We are providing £350 million for the Belfast City Region Deal and £163 million for the Causeway Coast and Glens and Mid South West Growth Deals, and a £105 million economic package for the Derry-Londonderry.<sup>22</sup>
- **Delivering tax reliefs worth £2.3 billion for the North Sea oil and gas sector.** The UK Government effectively abolished Petroleum Revenue Tax by reducing the rate from 35 to 0 per cent and reducing the Supplementary Charge from 20 per cent to 10 per cent. In the last budget it was announced that the tax history of an oil and gas field will be transferable – allowing younger smaller operators to take on older fields and continue extraction or start decommissioning.<sup>23</sup>
- **Boosting funding for Scottish farmers.** The UK Government has resolved the historical issue of convergence uplift funding and ensured that Scotland's farmers will receive their fair share of funding in the future, as called for by Scottish Conservative MPs in 2017.<sup>24</sup>
- **Accelerating Growth Deals across Scotland to create jobs and prosperity with an extra £1.4 billion of investment.** The UK Government has committed £500 million to the Glasgow Deal, £150 million to the Tay Cities, £125 million to the Aberdeen Deal, £53 million to the Inverness Deal, £300 million to the Edinburgh Deal and £45 million to the Stirling Deal; plus £260 million for the Borderlands Growth Deal, £103 million in funding for Ayr and the Ayrshire region, and £65 million for the Moray region.<sup>25</sup>
- **Investing in Wales' railways so that they are fit for the future.** Our Great Western Modernisation Programme, including our £5.7 billion investment in new, state of the art IEP trains, will cut journey times from South Wales to London. The New Stations Fund has delivered £2.15 million for Pye Corner in Newport and £4 million for Bow Street in Aberystwyth. £16.1

million has been invested in the Halton Curve, linking North Wales and Liverpool, £300 million on signalling improvements in the Cardiff area, and £50 million on signalling in North Wales.<sup>26</sup>

- **Supporting more than 7,000 jobs with over £1 billion spent on defence in Wales.** The UK's record defence spending in Wales includes a £250 million contract with Raytheon in Broughton to provide support services to the Royal Air Force's fleet of surveillance aircraft.<sup>27</sup>
- **Seizing the opportunities of leaving the European Union for Welsh farmers.** A new Agriculture Bill has replaced the flawed Common Agricultural Policy – which rewarded farmers for the amount of land farmed rather than public benefits.<sup>28</sup>
- **Delivering a City or Growth Deal in every area of Wales, generating investment, jobs and prosperity.** We have committed £500 million for the Cardiff Capital Region City Deal, £115 million for the Swansea Bay City Deal, £120 million for a North Wales Growth Deal and £55 million for a Mid Wales Growth Deal. We will also begin work on a cross-border Marches Growth Deal.<sup>29</sup>

## Endnotes

- <sup>1</sup> *Get Brexit Done, Unleash Britain's Potential*, The Conservative and Unionist Party Manifesto 2019, [link](#)
- <sup>2</sup> *Devolution of powers to Scotland, Wales and Northern Ireland*, Cabinet Office, updated 8 May 2019, [link](#); *Devolution factsheet*, Cabinet Office, [link](#)
- <sup>3</sup> *PM to meet Northern Ireland Executive*, Prime Minister's Office, 13 January 2020, [link](#)
- <sup>4</sup> *Devolution: Joint Ministerial Committee*, Institute for Government, updated 1 July 2020, [link](#)
- <sup>5</sup> *Modernising the United Kingdom*, Policy Exchange, 3 Aug 2019, [link](#)
- <sup>6</sup> *First Flagship UK Government hub in Scotland completed*, Office of the Secretary of State for Scotland, 10 August 2020, [link](#); *New UK Shared Prosperity Fund to bypass Holyrood*, BBC News, 21 January 2021, [link](#)
- <sup>7</sup> *Local government in England: structures*, House of Commons Library, 8 June 2020, [link](#); *Devolution to local government in England*, House of Commons Library, 26 March 2020, [link](#); see also *English devolution: combined authorities and metro mayors*, Institute for Government, updated 1 October 2020, [link](#)
- <sup>8</sup> *Fact sheet on the UK's relationship with the Crown Dependencies*, Ministry of Justice, updated 31 January 2020, [link](#)
- <sup>9</sup> *Overseas Territories White Paper*, Foreign & Commonwealth Office, 28 June 2012, [link](#)
- <sup>10</sup> *Government to fulfil manifesto commitment and scrap Fixed-term Parliaments Act*, Cabinet Office, 1 December 2020, [link](#)
- <sup>11</sup> *The Status and Effect of Confidence Motions and the Fixed-term Parliaments Act 2011*, Public Administration and Constitutional Affairs Committee, 11 December 2018, [link](#)
- <sup>12</sup> *Draft Fixed-term Parliaments Act (Repeal) Bill*, Cabinet Office, 1 December 2020, [link](#)
- <sup>13</sup> *New Law Passed Will Make Voting in UK General Election Fairer*, Cabinet Office, 14 December 2020, [link](#); see also *2023 Review*, Boundary Commission, 5 January 2021, [link](#)
- <sup>14</sup> *Another success for the government's voter ID pilots: 22 July 2019*, Cabinet Office, 22 July 2019, [link](#)
- <sup>15</sup> *What does the Supreme Court's ruling on the Investigatory Powers Tribunal mean for parliamentary sovereignty?*, House of Commons Library, 28 May 2019, [link](#); *The UK Supreme Court: A Constitutional Court in all but name?*, Durham University, 8 November 2019, [link](#); *The law and its limits*, Prospect Magazine, 20 January 2020, [link](#); *Protecting the Constitution*, Policy Exchange, 28 December 2019, [link](#)
- <sup>16</sup> *Oral evidence: The Government's Constitution, Democracy and Rights Commission*, Public Administration and Constitutional Affairs Committee, House of Commons, 8 December 2020, [link](#)
- <sup>17</sup> *Independent Review of Administrative Law*, Ministry of Justice, 7 September 2020, [link](#)
- <sup>18</sup> *Independent Human Rights Act Review*, Ministry of Justice, 7 December 2020, [link](#)
- <sup>19</sup> *The Queen's Speech 2019*, Prime Minister's Office, 19 December 2019, [link](#)
- <sup>20</sup> *UK Government commits £2bn to support new Northern Ireland Executive*, Northern Ireland Office, 15 Jan 2020, [link](#)
- <sup>21</sup> *Joint Committee decisions on the Northern Ireland Protocol*, House of Commons Library, 23 December 2020, [link](#)
- <sup>22</sup> *Budget 2018*, HM Treasury, 29 October 2018, [link](#)
- <sup>23</sup> *UK government committed to maximising economic opportunity in North Sea*, Department for Business, Energy & Industrial Strategy, 30 August 2017, [link](#)
- <sup>24</sup> *Multi-million pound boost for Scottish farmers*, Prime Minister's Office, 6 September 2019, [link](#)
- <sup>25</sup> *City Region & Growth Deals*, UK Government, updated 17 November 2020, [link](#); *£65 million for Moray Growth Deal*, Cabinet Office, 11 July 2019, [link](#); *Spending Review 2020 speech*, HM Treasury, 25 November 2020, [link](#)
- <sup>26</sup> *New station boost for passengers thanks to £16 million government investment*, UK Government, 28 July 2017, [link](#); *Work gets underway on 'Halton Curve' to boost Liverpool City Region, Cheshire and North Wales rail links*, UK Government, 14 July 2017, [link](#); *North Wales passengers benefit from newly commissioned signalling system*, Network Rail, 26 March 2018, [link](#)
- <sup>27</sup> *UK defence invests more than £1-billion in Wales*, Wales Office, 30 January 2020, [link](#)
- <sup>28</sup> *A joint statement by the UK government and the Welsh Government – Bilateral Agreement on the Agriculture Bill and World Trade Organisation (WTO) Agreement on Agriculture*, DEFRA, 21 March 2019, [link](#); *Landmark Agriculture Bill becomes law*, DEFRA, 11 November 2020, [link](#)
- <sup>29</sup> *Office of the Secretary of State for Wales – Single Departmental Plan*, UK Government, 23 May 2018, [link](#); *Budget 2020*, HM Treasury, 11 March 2020, [link](#)